

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

Hawaii Children's Blood and)	Civil No. CV 03-00708 SOM/LEK
Cancer Group,)	
)	DECLARATION OF RAFAEL G. DEL
Plaintiff,)	CASTILLO
)	
vs.)	
)	
Hawai'i Pacific Health; Kapi'olani)	
Medical Specialists; Kapi'olani)	
Medical Center for Women and)	
Children,)	
)	
Defendants.)	TRIAL: May 23, 2006
)	9:00 a.m.

DECLARATION OF RAFAEL G. DEL CASTILLO

I, RAFAEL DEL CASTILLO, hereby declare:

1. I am an attorney licensed to practice law in the State of Hawai'i, and I am a member of the law firm of Jouxson-Meyers & del Castillo, AAL, LLC.
2. I am one of the attorneys for Hawaii Children's Blood and Cancer Group, and I make this declaration in support of Plaintiff's Motion to Strike or Dismiss Defendants' Renewed Motion To Dismiss, Or In The Alternative, To Stay Proceedings Pending Resolution Of The Concurrent State Of Hawaii Circuit Court Case, Or To Continue Trial, filed January 11, 2006, Without Leave To File After The December 21, 2005 Dispositive Motions Deadline..

3. Defendants' Renewed Motion to Dismiss is presently scheduled for a hearing before the Honorable Susan Oki Mollway, U.S. District Court Judge, on February 13, 2006 at 9:00 a.m..

4. Pursuant to Local Rule 7.4, Plaintiff's Opposition to Defendants' Renewed Motion to Dismiss must be filed and served on or before January 26, 2006.

5. Based on the case law in this District and the Ninth Circuit, and in other Circuits, Plaintiff believes its Motion to Strike or Dismiss will be granted because Defendants filed their Renewed Motion to Dismiss three weeks after the December 21, 2005 deadline for dispositive motions set in the Amended Rule 16 Scheduling Order dated July 19, 2005, and because Defendants failed to seek an amendment to the Scheduling Order or leave to file their Renewed Motion to Dismiss after the deadline.

6. Plaintiff believes a prior hearing on its Motion to Strike or Dismiss is very likely to result in greater efficiencies because it will require materially less time and expense to the Court and the parties than allowing Defendants' Renewed Motion to Dismiss to proceed to a hearing on February 13, 2006, and the fate of Defendants' Renewed Motion to Dismiss will ultimately be the same because Defendants filed their Renewed Motion to Dismiss after the deadline and without regard to Rule 16(b), Federal Rules of Civil Procedure, which

states that a Scheduling Order "shall not be modified except upon a showing of good cause and by leave of the district judge or, when authorized by local rule, by a magistrate judge. . . ."

I, RAFAEL DEL CASTILLO, do declare under penalty of law that the forgoing is true and correct.

Dated: Honolulu, Hawai'i, January 16, 2006



RAFAEL G. DEL CASTILLO